

COUNT TWO

(Attempted Coercion and Enticement of a Minor to Engage in
Illegal Sexual Activity)

2. From at least in or about March 2017, up to and including at least in or about April 2017, in the Southern District of New York and elsewhere, DENVER MCFADDEN, the defendant, willfully and knowingly, did use a facility and means of interstate and foreign commerce to attempt to persuade, induce, entice, and coerce an individual who had not attained the age of 18 years, to engage in sexual activity for which a person can be charged with a criminal offense, to wit, MCFADDEN used a computer and the Internet to attempt to persuade, induce, entice, and coerce a minor to engage in sexual activity with MCFADDEN in New York, New York.

(Title 18, United States Code, Sections 2422(b) and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

3. I am a Special Agent with the FBI and have been so employed for approximately 5 years. I am assigned to an FBI squad charged with enforcing federal laws prohibiting child pornography and other forms of child exploitation. As such, I have worked on numerous investigations and prosecutions involving minor victims and the adults who victimize these children. This affidavit is based upon my personal participation in the investigation of this matter, as well as on my conversations with other law enforcement officers and my examination of documents, reports, and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts I have learned during the investigation. Where the contents of documents or the actions, statements, or conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

Overview

4. Beginning as early as about January 2017, DENVER MCFADDEN, the defendant, engaged in online communications with a minor ("Victim-1") to induce Victim-1 to meet with him and engage in sexually explicit activity. As a result of these online communications, MCFADDEN and Victim-1 met on or about January 31, 2017, in New York, New York, and engaged in sexual conduct. Law enforcement then used an undercover law enforcement officer ("UC") to pose as Victim-1 in order to protect Victim-1 but allow the investigation to continue. MCFADDEN continued to engage in online communications with UC, posing as Victim-1, with intent to induce Victim-1 to engage in further sexual conduct. On or about April 19, 2017, MCFADDEN traveled to New York, New York, believing he would meet Victim-1, at which time he was arrested by the New York City Police Department ("NYPD").

5. Based on my review of documents and my conversations with law enforcement officers and other individuals, I have learned, among other things, the following:

The January 31, 2017 Meeting

a. Based on my review of a police report prepared by the NYPD and flight records reflecting the air travel of DENVER MCFADDEN, the defendant, produced by MCFADDEN's employer ("Employer"), on or about January 31, 2017, I know that MCFADDEN traveled from Louisville, Kentucky, to New York, New York, at which time MCFADDEN met with Victim-1, and coerced Victim-1 to perform sexually explicit activities with him.

b. Specifically, according to information provided by Victim-1 to the NYPD, MCFADDEN and Victim-1 exchanged emails concerning their plans to meet on January 31, 2017, for purposes of engaging in sexual activity. The following are excerpts of emails exchanged between MCFADDEN and Victim-1 from on or about January 25, 2017, to on or about January 31, 2017:

MCFADDEN	"[Victim-1], I am so excited to meet u by the M&M store next week I will let u know day and time...mmmmmmmmmmmmmm, you are so hot"
VICTIM-1	"You are too I can't wait"
MCFADDEN	"OH GOD [Victim-1], I AM SOOOOOOOOOOOOOOOOOOOOOOOO EXCITED, YOU ARE

	BEAUTIFUL, MY NEW BABY BOY...chat u soon, next week is gonna be wonderful."
VICTIM-1	"Ik I'm so excited"
MCFADDEN	"[Victim-1], I think I will be there Tue. afternoon. So you want to Tue. afternoon like 3:30 or Wed. afternoon like 2:00-2:30? I prolly could either day. we can meet up in front of M&M Store like on one corner, it has 2 entrances, so I will walk around till I see u and I will walk up to u and say "hey , whats up" , then we can walk around , maybe get some lunch then go up to my room. sound good? Mmmmmmmmmmmmm cant wait."
VICTIM-1	"Sounds good and Wednesday sounds good"
MCFADDEN	"so can you Tuesday afternoon around 3:00-3:30? I may have to work on Wednesday....., I cannot fuking wait, mmmmmmmmmmmmm. wow hot. ps, what will u be wearing in front of MM, jeans? coat color? I will be in a black coat and jeans I think."
MCFADDEN	"i cant text, i have business phone and they monitor it, but I will call u when i get there in nyc from someplace.....wow I am so wanting u. dont cum Monday or Tue. so u save up lots for me...that will be so HOT. i get excited every time i think about you. Xooxxo"
MCFADDEN	"I am still good for today (Tuesday) , see u there, I am excited."

VICTIM-1	"Me too I'm almost on my way"
MCFADDEN	"ok 10 minutes, I think its on 45th, 115West, not sure, see u there in a few, just stay on side walk"
VICTIM-1	"Okay"

c. Moreover, according to information provided by Victim-1 to the NYPD, MCFADDEN and Victim-1 in fact met in New York, New York, on January 31, 2017, and engaged in sexual activity together. Following that meeting, MCFADDEN and Victim-1 exchanged emails recounting some of the sexual activity that occurred during their meeting. The following are excerpts of emails sent by MCFADDEN to Victim-1 after they met on January 31, 2017:

February 4, 2017	"miss you so much, hope we can again...."
February 9, 2017	"write me back? did you not like me? I loved it...and will be back in month or two, was hoping we could hang out, you are awesome."
February 9, 2017	"Wow I cant stop thinking bout it....it was better than awesome...did u like it as much as I did? can we do a 2nd time next month? xoxoxox, miss u"
February 14, 2017	"I loved kissing u with your cum in my mouth....and u kissing me. Mmmmmmm"

The Attempt to Meet on April 19, 2017

d. Based on my review of police reports prepared by the NYPD, in the course of the NYPD's investigation, the NYPD inserted UC to pose as Victim-1 and continue communicating with DENVER MCFADDEN, the defendant, for purposes of protecting Victim-1 and allowing the investigation to continue. The UC and MCFADDEN communicated by email concerning a plan to meet again for purposes of engaging in sexual activity. These communications occurred between on or about March 4, 2017, to on

or about April 19, 2017. The following are excerpts of emails exchanged between MCFADDEN and UC, posing as Victim-1, during this timeframe:

MCFADDEN	"[Victim-1], I may be back like in next 2 weeks, can we meet on the corner down near where you got your sandwich, so we don't have to walk so far? lets plan it...see if you can find it, like in front of the Lion King Theatre we passed would be good."
MCFADDEN	"hey hi, I may come next week, so would u be available like Wednesday afternoon like about 2:00 again? let me know and if I can come we can meet up and hang out like we did before, it was soooooooooooooo fun. are u down for it ?"
MCFADDEN	"I will try for sure, I will have to let you know for sure later, would love to see you too. Maybe it will work out, if not, then maybe tue or wed in the last two weeks in April. We can stay in touch....I miss you."
MCFADDEN	"Well with my schedule for work will Tue. the 18th work for you, like at 3:30? or even Wed. 19th I could meet up with u like 2:00. so let me know, the 11th is not looking good for me, I want to get there though asap, cause I miss you :) I loved hanging out with you...just want it again, bad."
UC	"Wednesday after school would be so perfect. I can't wait to see you. I missed you loooved hanging out"
MCFADDEN	"ok that probably will work, so I will work on it, and u plan on it too....OMGGGG>>>can't wait."

UC	"I can't wait to see you miss you sooo much"
MCFADDEN	"me too....so much. we will do like before....so FUN."
MCFADDEN	"[Victim-1], right now Wed. the 19th after school looks good. what time will that be? like 3:30? I am so excited...I can't wait to see you and hang out with u. everything looks good right nowso see u there. :) I am excited"
UC	"That's great. I get out of school at 2:30 so I could be there by 3. I can meet you by the lion king. I am soooo excited to see you again"
MCFADDEN	"THATS so AWESOME,,,,,I CANT WAIT EITHER, you are wonderful, I love how passionate you are, and what u say to me.....you are the BEST ever. I will let u know where for sure, might not be in same hotel, so we will try to meet up closer..."
MCFADDEN	"hey hi [Victim-1], I am having a hard time getting a hotel. So what area is closer to you that you can find easily and meet me there? like , are u in the Bronx, lower manhattan? what borough? and then we could figure out where to meet up. you said you were 45 minutes away, so what is closer to you? I might be able to get something closer to you so u don't have to travel so far. Are you close to Chinatown? Canal Street? or SOHO? just give me a general area and I can try to find a hotel close to a subway stop a bit closer to you. If not I am still looking for something near the Lion K. in case."
UC	"Before I go to bed I look at the lion king theater because it makes me think of you I don't mind walking around with you because you make me feel special I


	love that about you I just want to see and be with you any hotel is fine"
UC	"Hope you find something near there. I just can't wait to see you. Miss you"
MCFADDEN	"miss you too, I hope I can find something close there. what Subway station do you get off at? do u remember? I will try to get something close to where u get off....or just tell me another stop you get off at, I forgot which line you take to get there and go back. I cant wait to see you again OMGGGG>>>excited to see u, miss you soooooooooo."
UC	"I am so excited I really can't wait till Wednesday I think I got off at 49 or 50 train station I would walk over to the theater to see you"
MCFADDEN	"i am so excited too. the Lion K is at 200 West 45th Street. So I that will work. but can you be there like at 2:30 instead of 3:00, I got work to do after we meet up so I can go to my meetings after. Is that possible for you? if not, I will still try to work it out, we just wont have as long." WOW, OMGGGG>>>>I can not wait. I am sooooooooooooooooooooo excited. Let's make this happen, stay in touch here and check this mail everday and I will too, in case there's any changes."
MCFADDEN	"I will be so happy to see you too. Sounds great, so my hotel is not far from there at all, like a block or so...so we can go hang out. MMMMMMMMM....can't wait....so I guess we are all all set, we can email, if anything comes up.....sounds great."
UC	"So cool I get out at 2 so I can see you by 230 at the lion king toooo bad it's

	short but I'll be happy just to see you"
--	--

e. According to travel records produced by Employer, DENVER MCFADDEN, the defendant, traveled from Louisville, Kentucky to New York, New York, on or about April 19, 2017. Based on the email exchanges set forth in paragraph 3.d., MCFADDEN traveled to New York City at this time with the intent to engage in sexual activity with Victim-1.

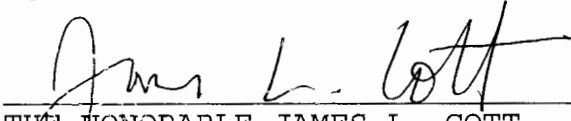
f. Based on my review of police reports prepared by the NYPD, on April 19, 2017, DENVER MCFADDEN, the defendant, was arrested by the New York City Police Department in the vicinity of 200 West 45th Street, New York, New York, the location of the "Lion King" production, for engaging in a criminal sexual act in the second degree, in violation of New York Penal Law § 130.45.

WHEREFORE, the deponent respectfully requests that a warrant issue for the arrest of DENVER MCFADDEN, the defendant, and that he be arrested and imprisoned, or bailed, as the case may be.



LESLIE ADAMCZYK
Special Agent
Federal Bureau of Investigation

Sworn to before me this
21 day of June, 2017



THE HONORABLE JAMES L. COTT
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK